Department of Energy
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MEMORANDUM FOR HUMAN RESOURCE DIRECTORS

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SUBJECT: POLICY GUIDANCE MEMORANDUM #32
REQUIREMENTS FOR DOE DELEGATED EXAMINING PROCEDURES

Purpose: Per the Delegated Examining Operations Handbook (DEOH), Section C, Agency Responsibilities, each agency headquarters must establish agency-wide policies and procedures for the Delegated Examining Process. The purpose of this guidance is to establish the Department of Energy's (DOE's) Delegated Examining policy and procedures in order to ensure an effective competitive examining program that supports mission accomplishments and is in accordance with merit system principles and applicable laws and regulations. This guidance should be followed in addition to the Office of Personnel Management's (OPM) DEOH, DOE's Policy Guidance Memorandum #10 on Category Rating as well as any local operating procedures in each Servicing Human Resource Office (SHRO).

Pledge to Applicants: In order to attract talented people in service to the Nation and the Department, DOE is committed to honoring the Pledge to Applicants created by OPM by ensuring that the delegated examining process enables and encourages job seekers rather than discourages and deters individuals from seeking employment in the Federal Government. To that extent, all SHROs must work to ensure a process that adheres to the following principles:

- A user-friendly application process that is not overly burdensome or time consuming;
- Promptly notifies applicants at key stages of the application process;
- Produces, clear, understandable, and streamlined job opportunity announcements;
- Provides timely and informed responses to questions about the requirements and the process; and
- Encourages timely decision making.

Introduction: Competitive examining practices and procedures shall comply with the requirements described in the current Interagency Delegated Examining Agreement (DOE-1) between OPM and DOE and the DEOH, otherwise known as "A Guide for Federal Agency Examining Units." When followed, this policy along with the requirements and procedures shown in the agreement and handbook will produce properly announced vacancies; ensure accuracy in the qualifications determination process; assignment and adjudication of veterans' preference; ensure regulatory compliance for issuing certificates of eligibles correctly; validate audit trails through records reconstruction and retention, and program oversight and assessments. Therefore, the agreement, this policy along with the handbook will serve as the foundation of competitive examining procedures for the Department of Energy.

Authorities:
Interagency Agreement for Delegated Examining Authority, DOE-1, dated December 2, 2010
OPM's Delegated Examining Operations Handbook, dated May 2007
DOE Guidance Memorandum #10, Category Rating, dated August 10, 2010

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Title 5 Code of Federal Regulations (CFR) Part 337; 5 CFR 5.1; 5 CFR Part 330; 5 CFR Part 337

Responsibilities:

A. DOE's Delegated Examining (DE) Program Manager, located in the Human Capital Policy Division (HC-11) will:

1. Serve as the liaison between OPM and DOE on matters pertaining to competitive examining. All SHROs must contact DOE's DE Program Manager and/or the Director HC-11 for any issue requiring approval by OPM.

2. Keep SHROs updated on changes, lessons learned; problems encountered and recommend solutions for competitive examining cases.

3. Serve as the primary point-of-contact between OPM and the Department for each SHRO with delegated examining authority.

4. Ensure that those involved in the competitive examining process are properly trained and certified.

5. Work with the Human Capital Management Accountability Program Manager (HCMAP) to ensure the examining operations of each SHRO adheres to the policies, procedures, and departmental requirements, and most importantly, upholds the integrity of the legal and regulatory requirements of merit selection (5 USC 2301 and 2302).

B. Human Resource Directors for each SHRO will:

1. Maintain programmatic responsibility for the competitive examining processes within their organization. Ensure that this policy as well as OPM's regulatory requirements are properly executed.

2. Ensure managers and employees are trained and informed of the merit system principles and prohibited personnel practices.

3. Ensure all requests to pass-over a disabled veteran with a documented disability of 30% or more are sent to HC-11 for review, concurrence and transmittal to OPM for approval.

4. Establish and appropriately execute internal operating procedures for requests to pass-over 5-point veterans' preference eligibles and any other veteran with a disability of less than 30%.

5. Ensure selections made through competitive examining are the best qualified applicants from a sufficient pool of well-qualified eligibles.

6. Establish internal standard operating procedures (SOP) for delegated examining activities. At a minimum, SOPs must address how the human resources (HR) specialist will:

   a. Post job opportunity announcements (JOAs) including stating the minimum length of announcements and requirements for the position;
   b. How to handle 10-point veteran applicants;

c. Establish and describe consistent procedures on how to handle status applicants, incomplete applications, nepotism, veterans' preference applicants, records retention, selection certificates, reconsideration of rating process;
d. Notices of results; and
e. Priority consideration procedures as referenced in DEOH chapter 6-E and, Policy Guidance Memorandum # 31 dated February 18, 2014.

7. Conduct annual self audits as instructed in the DEOH and provide results to HC-11.

8. Ensure that every selection certificate is audited even when no selections are made and/or the certificate is canceled.

9. Ensure that appropriate and approved suitability processes are implemented and consistently applied.

HR Specialist(s) Involved with Delegated Examining will:

1. Be trained and certified in delegated examining;

2. Work with hiring officials to develop job analysis and crediting plans as a sufficient rating instrument prior to posting the job opportunity announcement. Ensure each job analysis and rating plan is signed and dated by a certified federal human resources specialist.

3. Verify and clear the agency's Reemployment Priority List (RPL) before posting any JOA's. HC-11 maintains the only RPL for DOE.

4. Ensure that job opportunity announcements meet the requirements of this policy as well as the criteria established under Subpart A – Filling Vacancies in the Competitive Service under 5 CFR 330.101; 330.102; 330.103 and 330.104 .

5. Remove (or recues) themselves from any case that involves a family member, household relative, or anyone that the specialist has a personal relationship with, including positions for which the specialist is personally interested in being considered.

6. Ensure that all procedures are followed for the secure handling, receipt, rating, and ranking of applications.

7. Ensure qualification determinations for each applicant are in accordance with the appropriate OPM qualification standard.

8. Appropriately apply and adjudicate veterans' preference.

9. Certify candidates for referral per OPM's regulatory and procedural guidance.

10. Verify selections from DE certificates and appropriately adjudicate all non-selection of veterans' preference eligibles (as applicable).

11. Ensure all applicant notification requirements are met per OPM guidance (i.e. application received, application assessed for qualifications, applicant referred to selecting official (or not); and applicant selected (or not).

Job Opportunity Announcements

JOAs must include all required information as outlined in 5 CFR 330.104, the DEOH, as well as the Department's Memorandum Guidance #30, dated December 19, 2012; to include clear applicant instructions for status candidates and veterans' preference applicants. As such, the merit system requires each SHRO to give members of the public an opportunity to compete for most vacant positions. Therefore, when filling a vacant position through the agency's delegated examining agreement (DOE-1), SHROs must ensure that job opportunity announcements are sufficient enough to:

- Recruit enough well-qualified applicants to ensure adequate competition for competitive service positions;
- Allow for each JOA to have a suitable open period for receipt of applications and open and fair competition;
- Specify filing instructions and conditions clearly in the JOA under the "how to apply" section; and
- Ensure that all JOA's are posted on USAJOBS.

At a minimum, the announcement number should consist of the activity, calendar year (CY), and the vacancy announcement number, for example (HQ-10-DEXXX).

The number of vacancies must be listed in the announcement. In addition, the following statements should be included in the "Other Information" section; "This announcement may be used to fill additional positions."

If a vacancy announcement or selection certificate is canceled and the same announcement is re-advertised within 120-days of the cancellation date, the HR Specialist must ensure that all applicants from the first announcement and second announcement are considered together as one case examining file. Otherwise, the HR Specialist must ensure that applicants are appropriately notified of the canceled vacancy announcement and instructed to re-apply for the new announcement or whether or not their applications will be considered under the new announcement. Example: This announcement cancels and replaces VA- HQ-12-DE-0000. Applicants must reapply under this announcement to be considered for this position. Additionally, each applicant's status must be updated in the automated hiring system to reflect latest announcement status, i.e., canceled. If applicants are not appropriately notified, then it is expected that their applications will be considered under both vacancy announcements.

Open Until Filled (Open Continuous) Job Opportunity Announcements:

When an Open Continuous vacancy announcement is used, JOAs must clearly indicate appropriate, reasonable cut-off dates. No Open Continuous JOA should remain open beyond 1 year. All applications submitted in response to the JOA must be considered for the duration of the vacancy opening period. As such, applicants will remain on certificates for each cut-off period unless any of the following actions have taken place which will preclude the applicants from further consideration:

- Non-veteran applicants may be removed from consideration after receiving 3 bona-fide considerations;
- SHRO receives a written declination from applicant(s);
- Applicant(s) failed to respond to selecting official; or
- Applicant(s) officially withdraws from further consideration.

Official passover and/or objections must be submitted in order to remove any qualified veterans preference eligible from further consideration.

Interdisciplinary Positions

Interdisciplinary positions are allowed for professional/scientific positions only (e.g., General Engineers, Computer Scientist, etc.)

There should be one vacancy announcement per position. Each vacancy announcement should include all applicable titles, grade and series, e.g., GS-1301/801-13/14. Each announcement should provide clear instructions on how to apply for an interdisciplinary position.

Evaluate all applicants based on the appropriate qualification standard for the series in which they are applying and/or qualified for (e.g. interdisciplinary positions). Develop the evaluation criteria using the competencies/KSAs identified for the position itself. Note: there should be one evaluation criteria per vacancy. There is no need to develop evaluation criteria for each specific series.

Apply the evaluation criteria/crediting plan to all eligible applicants, regardless of series.

Under category rating each selection certificate should include all best qualified candidates in the highest category. If there are fewer than 3 candidates in the highest quality category, the second highest category of applicants can be merged with the highest quality category. Remember, when merging categories all applicants in the second highest category must be consolidated with the highest quality category for selection consideration. Be sure to keep a record of which series the applicant qualifies for. Do NOT issue separate certificates for separate series. There should be one certificate per grade level.

Individual Certificates

All certificates must include the information outlined in the DEOH, Chapter 6; e.g, certificate number, vacancy announcement number, date of issue, expiration, etc.

Certificates issued through category rating procedures must contain the names of all candidates in the highest quality group in alphabetical order to include veterans with the appropriate veterans' preference symbols of each eligible (e.g. CP, CPS, TP, XP NV,) etc.

Certificates must expire within 30-days after issuance. Extensions may be granted in 30 day increments for a maximum of 120 days. Requests for extensions must be submitted in writing to the SHRO prior to the expiration date of the certificate. The certificate is no longer valid after 120 days. SHRO's must be mindful of the Department's time-to-hire requirements.

SHROs are responsible for auditing and adjudicating all selection certificates issued through delegated examining.

Priority Consideration Process

Priority consideration is a special consideration tool that is given to an applicant who was previously denied consideration due to an administrative error, law or regulatory violation. No applicant is guaranteed selection except under instances with special selection priority of a well-qualified eligible under the Interagency Career Transition Assistance Program (5 CFR Part 330), or in instances necessary to regularize an illegal appointment.

Each SHRO is responsible for ensuring that all applicants and employees receive fair and equitable treatment when applying for positions. In the event that the SHRO discovers an administrative error on the part of the examining office, appropriate steps must be taken to reconstruct the case and ensure appropriate action. Please refer to the Department's Policy Guidance Memorandum #31 titled Procedures for Regularizing Illegal or Erroneous Appoints and Managing Priority Placement and Priority Consideration cases dated February 18, 2014 for further guidance.

In addition, each SHRO may also establish internal procedures on how they will handle priority consideration procedures internally, for the following categories:

1. Lost Consideration Due to Erroneous Certification
2. Lost Employment Consideration
3. Lost Certification

However, all internal procedures must, at a minimum, include the steps outlined in the Department's Policy Guidance Memorandum and any action taken must be documented in the appropriate case file when applied.

When there is a violation of law (e.g., veterans' preference), and/or illegal appointment identified, each SHRO must immediately notify HC-11. HC-11 will, as necessary, assist with efforts to reconstruct the case file and regularize the appointment. Any variation request (if required) must be submitted to HC-11 for review, concurrence and transmittal to OPM for approval.

Positions Covered by the Luevano Consent Decree

Competitive examining is mandatory for any position covered by the Luevano Consent Decree that is being filled at the GS-05 or GS-07 level and is classified at the two-grade interval with promotion potential to the GS-09 or higher. These recruitment actions must be forwarded to OPM for processing. A completed SF-39, position description and Standard Form 52 are required to be submitted to OPM. Specialists must refer to the DEOH Manual Chapter 2 and Appendix D for additional information and instructions on recruiting for positions covered by the Administrative Careers with American (ACWA) positions.

The Delegation Agreement between OPM and DOE does not authorize the use of an OPM developed examining instrument.

Selective Placement Factors (SPF)

Selective Placement Factors (SPFs) are knowledge, skills and abilities (KSAs) or special qualifications that are in addition to minimum qualification requirements. SPFs must be essential to perform the duties and responsibilities of the position. The position description and job analysis must support the need for any SPF's; thus, they must be justified and well documented in the case examining file. The legitimate use of a bona fide screen-out question or selective factor is, of course, an important factor in an examination. However, it should never be used to give an applicant unfair advantage or place inappropriate job requirements on any vacancy. It is essential that any selective placement factors used in filling a particular vacancy be included in the vacancy announcement. Selective factors must be clearly identified in the announcement.

DE Assessment Questionnaire

It is the responsibility of each Human Resource Director (HRD) to ensure assessment tools meet the requirements of 5 CFR 300, are job related, not overly burdensome, agency specific or full of federal jargon. Each qualified applicant will be assessed against the predetermined quality ranking factors as outlined in the vacancy announcement under "How You Will Be Evaluated" section.

Applications from 10-point Veterans Preference Eligibles

10-point veterans' preference applicants are eligible to apply for a vacant position after the original announcement closes. They are also eligible to submit their "interest" to work for the agency without a formal solicitation (proper JOA). As such, each SHRO is responsible for maintaining a 10-point veterans' preference applicant file. When there is an available vacancy announcement, SHRO's must check the 10-point veterans' preference file to see if the veteran meets the requirements for the position. If so, the office may contact the applicant and have them apply to the new announcement or have them manually complete the application. If the manual process is used, the HR Specialist is required to enter the information into the automated recruitment system.

Adjudication of Veterans Preference

Basic definitions for the application of veterans' preference are found in 5 CFR 211.

Specific instructions for adjudicating veterans' preference are contained in OPM's Vet Guide at: http://www.opm.gov/policy-data-oversight/veterans-services/vet-guide/

Each SHRO is responsible for establishing internal procedures on how the organization will adjudicate veterans' preference as well as how they will handle required veteran documentation. If a 10-point veterans' preference applicant applies for a position, but does not submit all supporting documents, he/she should be given tentative 5 point preference until all documents are submitted. Final documents must be obtained prior to a tentative job offer.

Veteran Passover Request

HRD's have the authority to review and approve requests to passover 5-point veterans' preference eligibles and eligibles with a documented disability of less than 30%.

All requests to passover a disabled veteran with a documented disability of 30% or more must be sent to HC-11 for review, concurrence and transmittal to OPM for approval. If the passover request is based on an applicant's suitability, appropriate documentation must accompany the request.

Receiving Applications

Late applications are not allowed. However, late applications may be accepted from disabled veterans' preference eligibles and federal employees unable to apply for a JOA due to active reserve duty continuing beyond 15 days. When applicable, late applications can be accepted up until the time that a certificate is issued. Once a certificate is issued the only time it can be amended to accept late applications is at the request of the selecting official. Such requests must be documented in the case examining file for reconstruction purposes.

Each SHRO is responsible for establishing procedures on how to handle applications that are submitted after the closing date. At a minimum, the procedures should allow for the provisions stated in this policy and the DEOH, Chapter 4-A-6.

Incomplete Applications

All JOAs should provide clear instructions to applicants on what must be submitted with their application. When supporting documentation is required, the announcement should state what specific forms or documents are needed at the time of application. The JOA must state that applicants MUST submit supporting documents by the closing date of the announcement. Status applicants should not be eliminated from consideration if they fail to provide a SF-50. Five-point veterans who fail to provide a DD-214 may be allowed to remain in veterans' preference status tentatively; however, SHROs have the option of documenting the 5-point veteran as a non-veteran due to the lack of supporting documentation. However, 10-point veterans who submit some of the supporting documents, but not all, can receive tentative preference until sufficient documentation is received.

The VOW (Veterans Opportunity to Work) To Hire Heroes Act of 2011, signed on November 21, 2011 requires Federal agencies to treat active duty service members as veterans, disabled veterans, or preference eligibles for purposes of appointment in the competitive service when the service members submit a certification of expected discharge or release from active duty under honorable conditions along with the application for Federal employment.

Thus, SHROs must accept, process, and consider applications for appointment from any service member who submits a certification in the same manner as they would consider other veterans' preference eligibles. A certification is any written document from the armed forces that certifies the service member is expected to be discharged or released from active duty under honorable conditions not later than 120 days from the date the certification is signed.

All SHROs should have internal standard operating procedures on how to handle incomplete applications. While each SHRO has the option of deciding how to handle 5-point veterans' preference applicants who fail to submit their DD-214, the decision should be included in the standard operating procedures and applied consistently throughout the SHRO.

Transcripts (official or unofficial) are required only when the position supports positive education and/or when it is necessary to determine basic qualifications. An unofficial transcript can be used for the initial

application screening. However, prior to establishing the official entrance on duty date SHROs must secure an official transcript. Failure to submit a transcript required to determine basic eligibility requirements should result in an incomplete application.

Accepting and Processing Applications from Status Candidates

Status applicants are allowed to apply for public notice vacancies. When a status candidate applies for a delegated examining announcement, they should be treated as any other non-status candidate. Applications are reviewed and rated based on the quality of general and specialized experience, as per the qualifications standard. Time-In-Grade is not a factor in determining the quality of specialized experience. Status applicants should not be eliminated from consideration for failing to provide a SF-50 at the time of application. Status candidates who are selected from a delegated examining announcement are required to complete another 1-year probationary period unless they meet the exceptions in 5 CFR315.802.

Reconsideration of Rating Process

Each SHRO should establish a reconsideration of rating process for their organization. The reconsideration process should be documented and followed consistently. The procedures for the reconsideration process should be made available to applicants who wish to challenge the qualification determination made by a SHRO for a specific position. Should the applicant dispute the qualification determination made by the SHRO under the SHROs reconsideration process, the applicant can request a reconsideration at the agency level.

Should an applicant request an agency level reconsideration, the SHRO can submit the request to HC-11 for a reconsideration review and final decision. The reconsideration package should contain a full written explanation of the rationale for the initial and subsequent qualification determination(s). For example, what documents did the HR Specialist use in making the qualification determination (resume, transcript, responses to JOA questionnaire)? What OPM qualification requirements were referenced in making the determination? Did the applicant provide supplemental documentation? A copy of all documents used in the qualification analysis and determination made by the SHRO must be included in the reconsideration package submitted to HC-11. However, before the SHRO submits the reconsideration request to HC-11 for agency level review, the reconsideration request must have been previously reviewed by at least two staff members, i.e., HR Specialist and HR Director or HR Specialist and Lead HR Advisor.

The reconsideration decision rendered by HC-11 is final. There is no further review or appeal. As per the DEOH, the applicant cannot appeal to OPM.

CTAP/ICTAP Eligibles

Individuals who have special priority selection rights under the CTAP/ICTAP must be well qualified to receive consideration.

CTAP/ICTAP candidates MUST submit a copy of the agency reduction-in-force notice, a copy of their most recent performance rating and a copy of their most recent SF-50 noting current or last position held, the grade level, and the duty location.

If a CTAP/ICTAP candidate applies for a vacancy, it is the SHRO's responsibility to verify that the applicant meets the eligibility requirements for CTAP/ICTAP consideration. If the applicant meets the basic eligibility requirements, they are then rated and ranked against the examining questionnaire. If the candidate is deemed well qualified, they will be certified for consideration. CTAP/ICTAP candidates are identified as such on the certificate of eligibles.

Category Rating

Category rating is the only competitive tool used for certifying applicants at DOE. For additional instruction on using category rating refer to DOE's Policy Guidance Memorandum # 10 on Category Rating.

Direct Hiring Authority

SHRO may use the government-wide Direct Hiring Authority (DHA), when a sound, defensible business cases has been developed. Such authorities are codified under 5 U.S.C. Section 3304 and 5 CFR Part 337, Subpart B. Managers may appoint candidates directly to jobs under an OPM approved government-wide or agency specific DHA for which the Department and OPM (when applicable) has determined that a severe shortage of candidates exists, or there is a critical hiring need for specific positions. SHROs may use the DHA to give qualified candidates a career, career-conditional, term, temporary or emergency appointment without regard to veterans' preference and category rating. In addition, each SHRO must adhere to the public notice requirements of 5 U.S.C.3327 and 3330 and the displaced employee procedures found at 5 CFR Part 330, subpart G. As such, each SHRO is responsible for issuing a 5-day JOA clearing ICTAP and any other public notice requirements. If applications are received during the JOA process, a certificate of eligibles may be issued with the names of the qualified applicants listed in alphabetical order.

Auditing Case Files

SHRO's are responsible for auditing all certificates of eligibles and case files in accordance with Chapter 6, Section C of the DEOH. Auditing selection certificates prior to the entrance on duty date (EOD) of the selected candidate will ensure selection decisions meet all legal and regulatory requirements, and prevent errors that could negatively impact the selectee (i.e., illegal appointment).

Annual Self Audit

HRDs are responsible for ensuring that their Delegated Examining activities are reviewed on an annual basis. Normally, an individual not affiliated with the organization's delegated examining operations should conduct the self audit. It is acceptable to request another SHRO within the Department to conduct the self audit. The annual review should consist of a random sample of case files to include, job analysis, public notice information, vacancy announcement information, application acceptance and review procedures, CTAP/ICTAP compliance, 10 point veterans' preference documentation, Vet Preference adjudication, etc. There should be a written report of the audit findings maintained for the file. HRD's should be prepared to present their annual audit findings to the Human Capital Management Accountability team upon request.

Records Retention and Reporting Requirements

Delegated examining case files must adhere to and be consistent with the records retention and disposition schedule outlined in Appendix C of the DEOH.

HR Specialists must ensure the entire rating process is thoroughly documented. This will help explain the rationale for how the rating procedure was derived and provide sufficient information to enable reconstruction in the event of an audit, legal action or third party review. This documentation should be maintained as part of the official record and kept in the individual case file, or as a separate file identified by the occupation and reference any inventory (register) for which it was used.

The case file should include all information related to the position of record e.g., position description, job opportunity announcement, job analysis and crediting plan, certificate of eligibles, applications, and any other pertinent information that would be needed in the event of an audit or third party review. All cases must be kept for a minimum of 3-years and should only be purged or destroyed on or after the program has been formally evaluated by the Human Capital Management Accountability Team and/or the Office of Personnel Management and a final report has been issued.

If you have any questions regarding this policy guidance, please contact Tiffany Wheeler, who may be reached on 202-586-8481 or Tiffany.Wheler@hq.doe.gov.